



Appeal Decision

Site visit made on 20 August 2019

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 October 2019

Appeal Ref: APP/D0840/W/19/3229850

Land adjoining 33 Trevonnen Road, Ponsanooth TR3 7AZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms Louise Ziar, Prideaux Developments Limited, against the decision of Cornwall Council.
 - The application Ref PA18/10275, dated 31 October 2018, was refused by notice dated 21 December 2018.
 - The development proposed is retention of existing play park facility area, construction of two self-build dwelling houses, privacy landscaping, parking area and associated work.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development in the heading above has been taken from the planning application form. It is described on the planning decision notice and appeal form as construction of two self-build dwelling houses, privacy landscaping, parking area and associated work. This more accurately describes the development and I have dealt with the appeal on this basis.
3. The appellant name in the banner heading is taken from the appeal form and differs from the applicant name on the application form. The applicant has confirmed that the name on the appeal form is correct.

Main Issue

4. The main issue raised by this appeal is the impact of the loss of public open space.

Reasons

5. The appeal site comprises a roughly rectangular-shaped, flat, grassed area of land on the south side of Trevonnen Road. It is centrally located within the modern housing development of detached, semi-detached and terraced two and three storey dwellings. There are low railings along the road frontage, which incorporate pedestrian gates, allowing unrestricted public access to the grassed area. The side boundaries are defined by low railings and fencing. Low fencing bounds the rear of the grassed area. There is housing to both sides and the rear. Trevonnen Road is a no-through road, which rises towards its

southeast end, so that the houses to the rear of the appeal site are at a higher ground level than the appeal site, positioned above a steep crib-lock wall which rises up immediately behind the site.

6. The Council has confirmed that the open space was designated as public open space, to be adopted by the Council, through a Section 106 legal agreement attached to the planning permission for the housing development. However, adoption did not occur due to Council concerns regarding the safety and long-term maintenance of the crib-lock wall erected by the developer to the south of the site. The Council still maintains that it will not adopt the land. Following the refunding of the maintenance fee to the developer, the current position is that the developer and land owner are responsible for the maintenance of the site.
7. The appellant argues that the appeal site should not be considered to be public open space since it is not formally designated as such, it has not been secured as public open space, and the owner is not bound to continue to allow access to the land for such purpose. Furthermore, having regard to ongoing costs associated with indemnity insurance, notwithstanding the outcome of this appeal, the appellant has confirmed the intention to prevent future public access to the site.
8. Notwithstanding the above, I find that the current position is that the appeal site comprises an area of open space, designated through a legal agreement which, the Council has confirmed, has not been modified. It is of public value in accordance with the definition of open space within national Planning Practice Guidance (PPG), which advises that open space can include open areas within a development, can provide health and recreation benefits to people living and working nearby, and can be an important part of the landscape and setting of built development. The letters of representation submitted in response to the planning application and appeal confirm that, notwithstanding the existence of other larger areas of public open space within Ponsanooth, including Ponsanooth Playing Field and Kennall Vale Woods, the appeal site is well-used and valued by local residents as a safe children's play area and community space.
9. During my site visit, I found the site to be tidy and well-maintained. It is visually prominent within Trevonnen Road, and I consider it to be a pleasant, open, green space, which makes a positive contribution to the visual amenities of the street scene and this part of the housing estate, which is otherwise dominated by hard-surfaced highway and frontage parking rather than landscaped front gardens. I also observed that the site is conveniently located in relation to the surrounding housing and that Trevonnen Road is a low-speed, no-through road, so that the site is particularly attractive as a play area for younger children.
10. The Parish Council has confirmed the desire to safeguard the land for open space through the emerging St Gluvias Neighbourhood Development Plan (NDP). The emerging NDP cannot be afforded any significant weight in the determination of the appeal, since it has not yet reached draft plan status. However, both parties have confirmed that, notwithstanding the Council's concerns regarding the crib-lock wall, discussions have taken place with respect to the potential transfer of the land to the Parish Council. I attach weight to this in reaching my decision. Whilst agreement on this matter does not appear to have been reached, allowing the appeal proposal would prejudice

a future satisfactory outcome. The appellant's proposal to restrict public access regardless of the outcome of the appeal is noted, but this is a potentially reversible situation and would not necessarily result in the permanent loss of the open space.

11. The appeal proposal would retain a play area at the front of the site. However, this would not be large enough to provide a meaningful replacement area of public open space that would provide the same level of practical community use and visual amenity value as the existing land. It would also potentially give rise to harmful neighbour amenity impacts due to its position immediately in front of the proposed private garden land.
12. Accordingly, the appeal proposal would result in the permanent loss of open space of high community and visual amenity value, contrary to the aims of Policies 12, 13 and 16 of the Cornwall Local Plan Strategic Policies 2010 – 2030, which, amongst other aims, encourage the adequate provision of open space within development in the interests of good quality design and social well-being and quality of life. The proposal also conflicts with Paragraph 97 of the Framework which aims to ensure that existing open space is not built on unless it has been proven to be surplus to requirements, or it would be replaced by equivalent or better provision, or the development is for alternative sports or recreational provision with benefits which outweigh the loss of the current or former use.

Other matters

13. The Council has raised no objection to the detailed design of the proposed dwellings. I agree with this conclusion. The new houses would be in keeping with the aforementioned character of Trevonnen Road.
14. There would be a small social benefit in providing two additional housing units and economic benefits as a result of the construction and occupation of the new houses. However, these benefits would not overcome the harm arising from the permanent loss of open space.

Conclusion

15. For the above reasons the appeal is dismissed.

S Leonard

INSPECTOR